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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,353	01/14/2004	Helmut Gegalski	1-23211	3328

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TOLEDO, OH 43604

EXAMINER

HONG, JOHN C

ART UNIT	PAPER NUMBER
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3726

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary

Application No.

10/757,353

Applicant(s)

GEGALSKI ET AL.

Examiner

JOHN C. HONG

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-18 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-18, 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of the restriction requirement made on last office action in the reply filed on 5/14/07 is acknowledged. The traversal is on the ground(s) that the amendment on claim 16 made the restriction requirement is negated. This is found persuasive so the restriction requirement has been withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 6 and 7, "said supporting structure" lacks antecedent basis.

Claim 15, line 8, "said first end" lacks antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by EP0452622.

'622 discloses : Regarding Claim(s) 1, A mounting device (1) for securing a control unit (18) to a vehicle comprising: a one piece bracket outer supporting shell (3) formed from a non-

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resilient material that is adapted to be attached to a vehicle; and a layer of resilient material (5,6,7) disposed within and attached to the outer shell, the resilient material covering substantially the entire surface of the supporting structure that is adjacent to the control unit, the resilient material also adapted to be placed in proximity to the control unit whereby the resilient material absorbs noise and vibrations (Fig. 1; Abstract).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" **if the prior art apparatus teaches all the structural limitations** of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Regarding Claim(s) 2, '622 discloses, an inner supporting structure formed from a non-resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting shell, the inner structure being adapted to be attached to the control unit (Fig. 1).

Regarding Claim(s) 3, '622 discloses, the resilient material is a polymer that is attached to the outer supporting shell and said inner supporting structure (Abstract).

Regarding Claim(s) 4, '622 discloses, the polymer is rubber and the outer supporting shell and said inner supporting structure are formed from steel (Abstract).

Regarding Claim(s) 5, '622 discloses, the layer of resilient material is adhesively bonded to the supporting shell and the inner supporting structure (Abstract).

Regarding Claim(s) 6, '622 discloses, the outer supporting shell and the inner supporting structure are generally U-shaped and form a bracket for securing the control unit to a vehicle (Fig. 1).

Regarding Claim(s) 8-11, '622 discloses, the resilient material is a polymer that is

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attached to the outer supporting shell and said inner supporting structure, the polymer is rubber and the outer supporting shell and said inner supporting structure are formed from steel, the layer of resilient material is adhesively bonded to the supporting shell and the inner supporting structure, and the outer supporting shell and the inner supporting structure are generally U-shaped and form a bracket for securing the control unit to a vehicle (Fig. 1; Abstract).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP0452622 in view of AAPA(Applicant's Admitted Prior Art).

'622 teach the limitation except the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

AAPA as disclosed in the specification section[4]-[7] , teaches the control unit is an electronic control unit that is attached to a hydraulic valve body to form an electro-hydraulic control unit.

It would have been obvious to one of ordinary skill in the art, at the time of the invention to utilize the device of '622 for installing control unit, as taught by AAPA so as to remove the vibration and noise.

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8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luthe (U.S. 2189653) in view of Schaible et al. (U.S. Patent 6114950).

Luthe teaches a control unit assembly (Fig. 1) comprising: an outer supporting structure (21) formed from a non-resilient material, the outer supporting structure having an outer threaded portion (24) formed integrally therewith and extending therefrom that is adapted to be attached to a vehicle; an inner supporting structure (16) that has a threaded inner portion (41) formed integrally therewith and extending therefrom; and a control unit (element including 40) for controlling a vehicle system having a threaded bore (bore holding 41) corresponding to the threaded inner portion of the inner supporting structure formed therein, the threaded bore receiving the threaded inner portion of the inner supporting structure such that the control unit is secured to the inner supporting structure (Fig. 1).

Luthe fails to teach: a layer of resilient material disposed between a second end of the outer supporting structure that is opposite from the first end and the inner structure, the layer of resilient material forming an insulative barrier between the outer supporting structure and the inner structure to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations.

Schaible et al. teach : a layer of resilient material disposed between a second end of the outer supporting structure (110) that is opposite from a first end and the inner structure (100), the layer of resilient material forming an insulative barrier between the outer supporting structure and the inner structure to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations (Fig. 3A-3C; col. 4, lines 47-50).

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It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the device of Luthe by adding the features of a layer of resilient material disposed between a second end of the outer supporting structure that is opposite from the first end and the inner structure, the layer of resilient material forming an insulative barrier between the outer supporting structure and the inner structure to prevent any direct contact therebetween whereby the resilient material absorbs noise and vibrations, as taught by Schaible et al. so as to absorb vibrations produced by the control unit.

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" **if the prior art apparatus teaches all the structural limitations** of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

9. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA(Applicant's Admitted Prior Art) in view of Schaible et al. (U.S. Patent 6114950).

Regarding Claim(s) 16, AAPA as disclosed in the specification section[4]-[7], teaches a control unit assembly for a vehicle comprising: a control unit for controlling a vehicle system disposed in proximity to the layer of resilient material with the layer of resilient material forming an insulative barrier that separates the outer supporting bracket from the control unit to prevent any direct contact between the outer supporting structure and the control unit whereby the resilient material absorbs noise and vibrations.

AAPA fails to teach: a one piece bracket outer supporting shell formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket.

Schaible et al. teach: a one piece bracket outer supporting shell (110) formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket (col.4, lines 47-50).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to utilize one piece bracket outer supporting shell formed from a non-resilient material that is adapted to be attached to a vehicle; and a layer of resilient material disposed within and attached to said outer bracket, as taught by Schaible et al. on the control unit of AAPA so as to absorb the vibration produced from the control unit.

Regarding Claim(s) 17, Schaible et al. teach an inner supporting structure (100) formed from a non- resilient material that is attached to a surface of the layer of resilient material that is opposite from the outer supporting shell, the inner supporting structure being attached to the control unit.

Regarding Claim(s) 18, AAPA teaches the control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit.

10. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luthe/Schaible et al. as applied to claim 15 above, and further in view of AAPA(Applicant's Admitted Prior Art).

Luthe/Schaible et al. teach the limitation except the control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit.

AAPA teaches a control unit includes a hydraulic valve body attached to an electronic control unit to form an electro-hydraulic control unit ([4] – [7]).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to install the control unit, as taught by AAPA on the mounting assembly of Luthe/Schaible et al. so as to absorb the vibration produced by the control unit.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN C. HONG whose telephone number is 571-272-4529. The examiner can normally be reached on M-F 9:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID BRYANT can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JOHN C HONG
Primary Examiner
Art Unit 3726

jh
8/18/07